

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Minutes of the State Panel Meeting
Held on September 12, 2006

I. OPENING OF MEETING 11:00 A.M.—160 North LaSalle Street, Suite S-400, Chicago, IL

II. PRESENT

Jackie Gallagher, Chairman; Michael Coli, Member of the Board; Charles Hernandez, Member of the Board; Michael Hade, Member of the Board; Rex Piper, Member of the Board; John F. Brosnan, Executive Director; Jacalyn J. Zimmerman, General Counsel; and staff members. The Board welcomed Extern Marc Lewin and Administrative Law Judge Sylvia Rios to its staff.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 9, 2006

Chairman Gallagher called for approval of the minutes of the August 9, 2006 meeting. Member Piper made a motion for approval of the minutes. Member Coli seconded. The Board passed the motion unanimously, by a voice vote.

IV. ADMINISTRATIVE MATTERS

Chairman Gallagher asked Executive Director Brosnan to present the State Panel administrative actions for the period of time from August 1 through August 31, 2006. He distributed the report to the Board for review, and the Board examined it. The Executive Director summarized the report's highlights, noting that during the month, the agency issued six certifications pursuant to majority interest petitions, one certification of voluntary recognition, three certifications pursuant to unit clarification petitions, and one certification pursuant to a directed unit clarification. The agency also received withdrawals in connection with six representation petitions. The Executive Director also noted that with regard to unfair labor practice cases, the agency issued ten complaints for hearing and ten administrative dismissals, one deferral to arbitration, and had ten charges withdrawn.

V. BOARD ACTIONS

1. S-RC-05-126

State of Illinois, Department of Central Management Services (Corrections)/American Federation of State, County and Municipal Employees

General Counsel Zimmerman began by summarizing the case, noting that the issue presented was whether the State of Illinois, Department of Central Management Services, Corrections, can be a joint employer along with an employer under the jurisdiction of the Illinois Educational Labor Relations Board (IELRB), for a unit of employees certified by the IELRB. General Counsel Zimmerman recommended that the Board uphold the ALJ's determination that the State is a joint employer and should be certified as such by the Board. Member Hade moved to accept the General Counsel's recommendation. Member Piper seconded the motion, and the Board passed it unanimously, by a voice vote.

2. S-RD-06-001

Louis Hansen/Village of Western Springs/International Union of Operating Engineers, Local 150

General Counsel Zimmerman began by summarizing the case, noting that Extern Marc Lewin assisted her in this matter by writing the memorandum of law distributed to the Board. The General Counsel noted that she agreed with the Executive Director's ultimate determination herein, but thought more pertinent

caselaw in support thereof should have been cited. Member Hade moved to uphold the Executive Director's Order as written. Member Piper seconded the motion, and the Board passed it unanimously, by a voice vote.

3. S-CA-04-327

Elk Grove Village Firefighters Association/Village of Elk Grove Village

Executive Director Brosnan presented the case, as General Counsel Zimmerman drafted and issued the Administrative Law Judge's Recommended Decision and Order (ALJ's RDO) herein. He noted that that no party had filed exceptions to the RDO, and asked whether the Board wished to review the decision on its own motion. The Board declined to do so.

4. S-RC-06-179

City of Harvey/Illinois Council of Police

General Counsel Zimmerman began by summarizing the case, noting that the issue presented was whether the majority interest petition filed herein violated the "election bar" rule, prohibiting the Board from processing a representation petition for any bargaining unit in which an election has been conducted within the previous 12 months, and thus, should be dismissed. In addition, the General Counsel noted that the petition seeks a unit determined inappropriate in an earlier proceeding. General Counsel Zimmerman recommended that the Board affirm the ALJ's RDO in a short-form decision. Member Piper moved to accept the General Counsel's recommendation. Member Hade seconded the motion, and the Board passed it unanimously, by a voice vote.

5. S-RC-06-043

Village of McCook (Police Department)/Metropolitan Alliance of Police, Chapter No. 111

General Counsel Zimmerman began by summarizing the case, noting that no party filed exceptions to the ALJ's RDO and that she agrees with the ALJ on the merits. However, she noted her unease with his discussion of an Illinois Supreme Court case, regarding the supervisory definition. Accordingly, she recommended that the Board publish its non-precedential order and either refuse to publish the ALJ's RDO, or put a footnote in its order specifically denying that it endorsed the ALJ's discussion of the "principal work prong," as otherwise, she feared that the Board would be held accountable. Chairman Gallagher disagreed with the General Counsel, arguing that only the ALJ would be responsible for his discussion, not the Board, and noting that in any event, the ALJ's discussion did not merit disavowal. Chairman Gallagher further noted that refusing to publish the ALJ's RDO would only draw attention to the issue. Chairman Gallagher urged that the Board decline to review the case on its own motion, allowing it to stand as a non-precedential order. The Board discussed the matter at some length and at the conclusion thereof, Member Hade made a motion to decline to review the case, but to accept the General Counsel's recommendation to refuse to publish the ALJ's RDO. Member Coli seconded the motion, and the Board passed it by a 4-1 voice vote, with Chairman Gallagher dissenting.

6. S-CA-05-079

Bellwood Professional Firefighters Association, IAFF Local 4232/Village of Bellwood

General Counsel Zimmerman began by summarizing the case, noting that the Executive Director issued a Dismissal on June 29, 2006, with an appeal filed. The General Counsel recommended that the Board remand the case to investigation to determine whether and to what extent bargaining unit employees performed EMS work both before and after the complained-of action. Member Hade disagreed, noting that it was not the agency's role to make the Charging Party's case. Member Hade made a motion to uphold the Executive Director's Dismissal. Member Coli seconded the motion, and the Board passed it unanimously, by a voice vote.

VI. OTHER BOARD MATTERS

Chairman Gallagher noted that at the day's earlier meeting, the Local Panel directed the General Counsel and Executive Director to draft a memorandum describing the Board's role under the police perjury legislation, and she requested that such a memorandum be provided to the State Panel as well. The Chairman noted that there was nothing to report regarding legislative matters and distributed the year-to-date fiscal report, the report on estimated year-end account balances, and the "actual v. budgeted" year-to-date report, prepared by Fiscal Officer Nicole Hildebrand. The Chairman and Board members then questioned and discussed at length, various aspects of the agency's fiscal reports. During that discussion, Member Coli suggested that the agency review certain mailing costs. Thereafter, the Board discussed whether there was a need for executive session, concluding it was not necessary at this time.

VII. ADJOURNMENT

Chairman Gallagher called for a motion to adjourn. Member Piper made a motion to adjourn the meeting. Member Hade seconded the motion, and the Board passed it unanimously, by a voice vote.

Adopted and approved by the Chairman and Members of the State Panel of the Illinois Labor Relations Board, in Chicago, Illinois, this 10th day of October, 2006.